

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.499/RPR/2024
निर्धारण वर्ष / Assessment Year : 2023-24

Adopt Commotrade Private Limited through
Shivalik Engineering Industries Limited
Flat No. C-33, Ring Road No.1,
Ashoka Millenium, Rajendra Nagar,
PAN: AADCV5964C

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax,
Circle-1(1), Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : S/shri Praveen Khandelwal &
Praveen Goyal, CAs

Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 02.04.2025

घोषणा की तारीख / Date of Pronouncement : 02.04.2025

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM:

The captioned appeal preferred by the assessee emanates from the order of the Ld. CIT(Appeals) dated 27.09.2024 for the assessment year 2023-24 as per the following grounds of appeal:

“1. That on the facts and circumstances of the case, the order dated 27/04/2024 passed by Centralized processing Centre and Ld.CIT(A) order dated 27/09/2024 is incorrect and illegal.

2. That on the facts and circumstances of the case and in law, the Centralized Processing Centre, Bengaluru ought to have accepted the rectified return filed by the appellant on account of merger of the appellant into Shivalik Engineering Industries Limited as per the order NCLT, Cuttack dated 11/10/2023 with retrospective effect from 01/01/2023, thereby rectifying the mistake which is apparent from records.

3. The CIT(A) failed to follow the decision of Apex Court in the case of M/s. Dalmia Power Limited & ANR vs ACIT, Circle 1, Truchi, in Civil Appeal No. 9469-99 of 2019.

4. The appellant craves to add, alter or delete any of the above grounds of appeal during the course of appellate proceedings.”

2. Brief facts in this case are that the assessee is a private limited company engaged in the business of trading activities. The original return of income was filed by the assessee in the name of amalgamating company viz. Adopt Commotrade Private Limited on 04.10.2023. Thereafter, the NCLT, Cuttack Bench, Cuttack had passed an order dated 11.10.2023 merging the assessee company (amalgamating company) i.e. Adopt Commotrade Private Limited to Shivalik Auto Engineering Industries

Limited (amalgamated company) with effect from 01.01.2023. Thereafter, the Centralized Processing Centre (CPC), Bengaluru processed the original return of income filed by the assessee company (amalgamating company) on 24.11.2023 which was accepted as such.

3. Thereafter, in pursuant to the order of merger passed with effect from 01.01.2023, the assessee filed a rectification application on 27.04.2024 u/s. 154 of the Act before the CPC, Bengaluru for giving effect of the merger qua amalgamating company to amalgamated company. However, the CPC, Bengaluru had rejected the rectification application filed by the assessee company for the reason that as the assessee company had raised a fresh/additional claim which was not there in the original return of income, therefore, the same could not be considered as mistake apparent from record.

4. Aggrieved the assessee company carried the matter in appeal before the Ld. CIT(Appeals) who after considering the submissions of the assessee company and the assessment order dismissed the appeal of the assessee company.

5. The Ld. Counsel for the assessee company submitted that since after merger a new entity has been born i.e. from Adopt Commotrade Private Limited to Shivalik Auto Engineering Industries Limited w.e.f. 01.01.2023, therefore, the financial figures in the return of income have changed which

needs to be considered while framing the assessment and in this case, since it was not done, thus, it was mistake apparent from record and for that reason, the rectification application u/s.154 of the Act was filed. However, prayer before the Tribunal was that in this backdrop if the matter is remanded to the file of the A.O for considering the order of merger passed by the NCLT, Cuttack (supra) and adjudicating after due verification of the return considering the merger which had taken place and a new entity was born and if these are verified and taken into consideration then justice would be done to the assessee company.

6. In this regard, the Ld. Sr. Departmental Representative (for short 'DR') fairly conceded that the matter needs verification and denovo adjudication on merits at the level of A.O specifically with regard to the changes in the financials of the entity which has been formed after merger.

7. We have heard the parties herein and analyzed the facts and circumstances involved in the present case. We are of the considered view that as per plea taken by the assessee company, the financial positions have changed so far as return of income filed by the assessee is concerned and more so, since the merger had taken place through which a new entity has been born w.e.f. 01.01.2023. In this regard, maintaining the old return which was filed by the assessee in the name of Adopt Commotrade Private Limited which was an amalgamating company and for which, the return

was filed on 04.10.2023, if this return is not amended it would cause gross injustice to the financials of the assessee company. Therefore, in the interest of justice, a detailed verification is required post-merger because new entity has been formed and in this background accounts have to be looked into and verified by the A.O and fresh assessment order is to be passed as per law while complying with the principles of natural justice. In view thereof, we set-aside the order of the Ld.CIT(Appeals) and remand the matter to the file of the A.O as per our aforesaid directions. We order accordingly. The assessee is directed to comply with the hearing notices before the A.O.

8. As per the above terms, the grounds of appeal raised by the assessee company are allowed for statistical purposes.

9. In the result, appeal of the assessee company is allowed for statistical purposes.

Order pronounced in the open court on 2nd April, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 2nd April, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रहित / Copy of the Order forwarded to :

1. अपीलार्थी /The Appellant.

2. प्रत्यर्थी /The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.